

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

**KONINKLIJKE PHILIPS ELECTRONICS
N.V. and U.S. PHILIPS CORPORATION,**

Plaintiffs,

v.

**THE ADS GROUP fka ADVANCED
DUPLICATION SERVICES LLC;
AMERICAN MEDIA INTERNATIONAL,
LTD.; CARBONITE INC.; THE COMVEST
GROUP; CONCORD RECORDS, INC.;
CONCORD MUSIC GROUP, INC; EVA-
TONE, INC.; HAL LEONARD CORP.;
HUDSON VALLEY CAPITAL PARTNERS,
INC.; INOVERIS LLC; INTUIT INC.;
METATEC INTERNATIONAL, INC.; MTI
ACQUISITION LLC aka MTI
ACQUISITION CORP.; MUSIC CITY
OPTICAL MEDIA, INC.; ZOMAX
INCORPORATED; MICHAEL F.
HARDWICK, an individual; ARUN
KHURANA, an individual; JEAN A.
LAGOTTE JR., an individual; JOHN
EDGAR MOLL, and individual, JOHN
STEVEN MOLL, an individual; DAVID A.
SILVON, an individual; and John Does No. 1
through 100,**

Defendants.

Civil Action No. 08-CV-4068 (CS) (GAY)

ECF Case

**NOTICE OF DEFENDANTS CONCORD RECORDS, INC.'S AND
CONCORD MUSIC GROUP, INC.'S MOTION TO DISMISS
COUNT II OF FIRST AMENDED COMPLAINT AND MOTION**

PLEASE TAKE NOTICE that, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Defendants Concord Records, Inc. and Concord Music Group, Inc. (collectively, "Concord") hereby move the Court to dismiss Count II of Philips's First Amended Complaint for failure to state a claim upon which relief can be granted against Concord. This motion is supported by the accompanying Memorandum of Law in Support of Defendants Concord

Records, Inc.'s and Concord Music Group, Inc.'s Motion to Dismiss Count II of First Amended Complaint. Concord respectfully requests a hearing on this motion.

WHEREFORE, Concord respectfully requests that this Court dismiss the claims against Concord for patent infringement in Count II of Plaintiffs Koninklijke Philips Electronics N.V.'s and U.S. Philips Corporation's First Amended Complaint for failure to state a claim upon which relief can be granted, as set forth in the accompanying proposed Order, and that it grant such other and further relief that it deems just and proper.

Dated: New York, New York
August 13, 2008

Respectfully submitted,

MANATT, PHELPS & PHILLIPS, LLP

By: /s/ Abigail M. Kagle

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CONCORD MUSIC GROUP, INC.

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**[PROPOSED] ORDER GRANTING DEFENDANTS CONCORD RECORDS, INC.'S
AND CONCORD MUSIC GROUP, INC.'S MOTION TO DISMISS
COUNT II OF FIRST AMENDED COMPLAINT**

Before the Court is Defendants Concord Records, Inc.'s and Concord Music Group, Inc.'s Motion To Dismiss Count II of First Amended Complaint and, after carefully considering the motion and the arguments and evidence submitted by the parties, the Court is of the Opinion that it should be GRANTED. The Court determines that Count II of the First Amended Complaint fails to state a claim upon which relief can be granted against Concord under any

viable legal theory.

IT IS HEREBY ORDERED THAT the claims for patent infringement asserted against Defendants Concord Records, Inc. and Concord Music Group, Inc. in Count II of Plaintiffs Koninklijke Philips Electronics N.V.'s and U.S. Philips Corporation's First Amended Complaint are DISMISSED WITH PREJUDICE.

SO ORDERED

Dated: New York, New York

United States District/Magistrate Judge